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Bank of America Corporation  
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13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION  
16  
17

18 ELENA M. DAVID,  
19 Plaintiff,  
20 v.  
21 J. STEELE ALPHIN, *ET AL.*,  
22 Defendants.  
23  
24

Case No. 06-cv-04763 WHA

**Declaration of Matthew D. Powers in  
Support of Motion for Transfer of Venue  
by Defendant Bank of America  
Corporation**

Hearing Date: January 4, 2007  
Time: 8:00 a.m.  
Place: Courtroom 9, 19<sup>th</sup> Floor  
Judge: Honorable William Alsup

1 I, Matthew D. Powers, state and declare as follows:

2 1. This Declaration is submitted in support of the Motion for Transfer of  
3 Venue pursuant to 28 U.S.C. § 1404(a) filed by defendant Bank of America Corporation  
4 ("Bank of America").

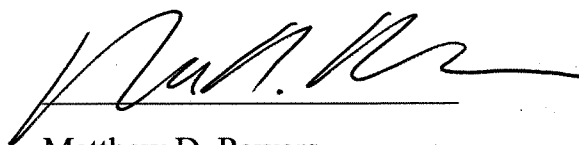
5 2. I am an attorney at O'Melveny & Myers LLP, counsel for Bank of  
6 America in the above-styled matter. I have personal knowledge of the following and, if  
7 called to do so, could testify competently thereto.

8 3. Attached hereto as Exhibit A is a true and correct copy of the  
9 preliminary<sup>1</sup> transcript of the November 28, 2006, deposition of Elena M. David.

10 4. Attached hereto as Exhibit B is a true and correct copy of the  
11 transcript of the November 9, 2006, initial case management conference in this matter.

12 5. Attached hereto as Exhibit C is a true and correct copy of a letter  
13 provided by plaintiff's counsel to O'Melveny & Myers by e-mail on November 29, 2006.  
14 Exhibit C is purportedly the letter from William G. Bertain to the plaintiff referenced at  
15 page eight, lines seven through seventeen of Elena M. David's deposition.

16  
17 Executed this 30th day of November, 2006, at San Francisco, California.

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20 Matthew D. Powers

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28 <sup>1</sup> The time to file an errata sheet pursuant to Fed. R. Civ. P. 30(e) has not yet expired.